



DEPARTMENT OF COMMERCE

International Trade Administration

[A-549-822]

Certain Frozen Warmwater Shrimp from Thailand: Final Results of Antidumping Duty Administrative Review; 2019-2020

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that the producer/exporter subject to this administrative review made sales of subject merchandise at less than fair value (LTFV) during the period of review (POR), February 1, 2019, through January 31, 2020.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Benjamin A. Lubberda, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2185.

SUPPLEMENTARY INFORMATION:

Background

This review covers a single producer/exporter of the subject merchandise, Thai Union Group Public Co., Ltd./Thai Union Seafood Co., Ltd./Pakfood Public Company Limited/Asia Pacific (Thailand) Co., Ltd./Chaophraya Cold Storage Co., Ltd./Okeanos Co., Ltd./Okeanos Food Co., Ltd./Takzin Samut Co., Ltd (collectively, Thai Union).¹

¹ In the 2012-2013 administrative review, Commerce found that the following companies composed a single entity: Thai Union Frozen Products Public Co. Ltd.; Thai Union Seafood Co., Ltd.; Pakfood Public Company Limited; Asia Pacific (Thailand) Co., Ltd.; Chaophraya Cold Storage Co., Ltd.; Okeanos Co., Ltd.; Okeanos Food Co., Ltd.; and Takzin Samut Co., Ltd. See *Certain Frozen Warmwater Shrimp from Thailand: Final Results of Antidumping Duty Administrative Review, Final Determination of No Shipments, and Partial Rescission of Review; 2012-2013*, 79 FR 51306 (August 28, 2014). Further, on January 5, 2016, Commerce found that Thai Union Group Public Co., Ltd. is the successor-in-interest to Thai Union Frozen Products Public Co., Ltd. See *Notice of Final Results of Antidumping Duty Changed Circumstances Review: Certain Frozen Warmwater Shrimp from Thailand*, 81 FR 222 (January 5, 2016). Therefore, we are treating these companies as a single entity for the purposes of this administrative review.

On June 28, 2021, Commerce published the *Preliminary Results*.² On October 15, 2021, we postponed the final results until December 23, 2021.³ A summary of the events that occurred since Commerce published the *Preliminary Results*, as well as a full discussion of the issues raised by interested parties for these final results, may be found in the Issues and Decision Memorandum.⁴ The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Commerce conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The merchandise subject to the order includes certain warmwater shrimp and prawns, whether frozen, wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off,⁵ deveined or not deveined, cooked or raw, or otherwise processed in frozen form. The frozen warmwater shrimp and prawn products included in the scope of this order, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are products which are processed from warmwater shrimp and prawns through freezing and which are sold in any count size. The products subject to this order are currently classifiable in HTSUS statistical reporting numbers 0306.17.00.03, 0306.17.00.06, 0306.17.00.09, 0306.17.00.12, 0306.17.00.15, 0306.17.00.18, 0306.17.00.21, 0306.17.00.24,

² See *Certain Frozen Warmwater Shrimp from Thailand: Preliminary Results of Antidumping Duty Administrative Review; 2019-2020*, 86 FR 33984 (June 28, 2021) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

³ See Memorandum, "Certain Frozen Warmwater Shrimp from Thailand: Extension of Deadline for Final Results of Antidumping Duty Administrative Review," dated October 15, 2021.

⁴ See Memorandum, "Issues and Decision Memorandum for the Final Results of the 2019-2020 Administrative Review of the Antidumping Duty Order on Certain Frozen Warmwater Shrimp from Thailand," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

⁵ "Tails" in this context means the tail fan, which includes the telson and the uropods.

0306.17.00.27, 0306.17.00.40, 1605.21.10.30, and 1605.29.10.10. Although the HTSUS numbers are provided for convenience and for customs purposes, the written product description remains dispositive.⁶

Analysis of Comments Received

All issues raised in case and rebuttal briefs by interested parties to this administrative review are addressed in the Issues and Decision Memorandum. For a list of issues raised by parties, *see* the appendix to this notice.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding the *Preliminary Results*, we made certain changes to the preliminary weighted-average margin calculations for Thai Union.⁷

Final Results of the Review

We are assigning the following weighted-average dumping margin to Thai Union for the period February 1, 2019, through January 31, 2020:

Exporter / Producer	Weighted-Average Dumping Margin (percent)
Thai Union Group Public Co., Ltd./Thai Union Seafood Co., Ltd./Pakfood Public Company Limited/Asia Pacific (Thailand) Co., Ltd./Chaophraya Cold Storage Co., Ltd./Okeanos Co., Ltd./Okeanos Food Co., Ltd./Takzin Samut Co., Ltd	0.57

We intend to disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding, in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act, and 19 CFR 351.212(b), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review.

⁶ For a complete description of the scope of the order, *see* the Issues and Decision Memorandum.

⁷ *See* accompanying Issues and Decision Memorandum.

Pursuant to 19 CFR 351.212(b)(1), where Thai Union reported the entered value of its U.S. sales, we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the examined sales to the total entered value of the sales for which entered value was reported. Where either the respondent's weighted-average dumping margin is zero or *de minimis* within the meaning of 19 CFR 351.106(c)(1), or an importer-specific rate is zero or *de minimis*, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.⁸

Commerce's "automatic assessment" will apply to entries of subject merchandise during the POR produced by Thai Union for which Thai Union did not know that the merchandise it sold to the intermediary (*e.g.*, a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.⁹

We intend to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the *Federal Register*. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for Thai Union will be will be 0.57 percent; (2) for previously

⁸ See section 751(a)(2)(C) of the Act.

⁹ For a full discussion of this practice, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

reviewed or investigated companies not participating in this review, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which the company was reviewed or investigated; (3) if the exporter is not a firm covered in this review, a previous review, or the LTFV investigation, but the manufacturer is, then the cash deposit rate will be the rate established for the most recently completed segment for the producer of the subject merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 5.34 percent, the all-others rate made effective by the *Section 129 Determination*.¹⁰ These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Order

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

¹⁰ See *Implementation of the Findings of the WTO Panel in United States Antidumping Measure on Shrimp from Thailand: Notice of Determination Under Section 129 of the Uruguay Rounds Agreements Act and Partial Revocation of the Antidumping Duty Order on Frozen Warmwater Shrimp from Thailand*, 74 FR 5638 (January 30, 2009) (*Section 129 Determination*).

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.221(b)(5).

Dated: December 23, 2021.

Ryan Majerus,
*Deputy Assistant Secretary
for Policy and Negotiations
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance.*

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Margin Calculations
- V. Discussion of the Issues
 - Comment 1: Whether to Use Thai Union's Reported Manufacturer Variables
 - Comment 2: Whether to Grant Thai Union a Level of Trade (LOT) Adjustment and/or Constructed Export Price (CEP) Offset
 - Comment 3: Whether to Use Thai Union's Most Recently Submitted Data Sets
- VI. Recommendation

[FR Doc. 2021-28401 Filed: 12/30/2021 8:45 am; Publication Date: 1/3/2022]